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# Unraveling the Central State, But How?: Types of Multi-Level Governance

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Founded in 1963 by two prominent Austrians living in exile – the sociologist Paul F. Lazarsfeld and the economist Oskar Morgenstern – with the financial support from the Ford Foundation, the Austrian Federal Ministry of Education, and the City of Vienna, the Institute for Advanced Studies (IHS) is the first institution for postgraduate education and research in economics and the social sciences in Austria. The **Political Science Series** presents research done at the Department of Political Science and aims to share “work in progress” before formal publication. It includes papers by the Department’s teaching and research staff, visiting professors, graduate students, visiting fellows, and invited participants in seminars, workshops, and conferences. As usual, authors bear full responsibility for the content of their contributions.

Das Institut für Höhere Studien (IHS) wurde im Jahr 1963 von zwei prominenten Exilösterreichern – dem Soziologen Paul F. Lazarsfeld und dem Ökonomen Oskar Morgenstern – mit Hilfe der Ford-Stiftung, des Österreichischen Bundesministeriums für Unterricht und der Stadt Wien gegründet und ist somit die erste nachuniversitäre Lehr- und Forschungsstätte für die Sozial- und Wirtschaftswissenschaften in Österreich. Die **Reihe Politikwissenschaft** bietet Einblick in die Forschungsarbeit der Abteilung für Politikwissenschaft und verfolgt das Ziel, abteilungsinterne Diskussionsbeiträge einer breiteren fachinternen Öffentlichkeit zugänglich zu machen. Die inhaltliche Verantwortung für die veröffentlichten Beiträge liegt bei den Autoren und Autorinnen. Gastbeiträge werden als solche gekennzeichnet.

## **Abstract**

The reallocation of authority upwards, downwards, and sideways from central states has drawn attention from a growing number of scholars in political science. Yet beyond agreement that governance has become (and should be) multi-level, there is no consensus about how it should be organized. This article draws on several literatures to distinguish two types of multi-level governance. One type conceives of dispersion of authority to general-purpose, non-intersecting, and durable jurisdictions. A second type of governance conceives of task-specific, intersecting, and flexible jurisdictions. We conclude by specifying the virtues of each type of governance.

## **Zusammenfassung**

Die Umverteilung von Autorität in zentralisierten Staaten nach oben, nach unten und seitwärts hat die Aufmerksamkeit einer wachsenden Anzahl von Forschern der Politikwissenschaft auf sich gezogen. Allerdings herrscht, - abgesehen von dem Einverständnis, dass das Regieren sich auf mehrere Ebenen erweitert hat (und erweitern sollte) -, kein Konsens darüber, wie Autorität organisiert werden sollte. Dieser Beitrag stützt sich auf eine Anzahl von Artikeln, um zwei Typen von Mehrebenen-Regieren zu unterscheiden. Ein Typ konzipiert eine Ausbreitung von Autorität über für allgemeine Zwecke zuständige, nicht-überschneidende und dauerhafte Jurisdiktionen. Ein zweiter Typ beschreibt Aufgaben-spezifische, überschneidende und flexible Jurisdiktionen. Wir schließen den Artikel mit einer Spezifizierung der Vorteile jedes Typen des Regierens.

## **Keywords**

Keywords: Multi-level Governance; General-purpose jurisdictions; Task-specific jurisdictions; Theories of governance

## **Schlagwörter**

Schlagwörter: Mehrebenen-Regieren; Jurisdiktionen für allgemeine Zwecke; Aufgaben-spezifische Jurisdiktionen; Theorien des Regierens

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New forms of governance and dispersion of decision making away from central states have gained the attention of a growing number of scholars across political science. Centralized authority – command and control – has few advocates. Modern governance is – and according to many, should be – dispersed across multiple centers of authority. But how should multi-level governance be organized?<sup>1</sup> What are the basic alternatives?

The question has long been debated between “consolidationists” and “fragmentationists” in American local government. There is general agreement that decisions on a variety of services, such as fire protection, policing, schooling, commuter transport, and planning, are better taken locally. But how should authority over such services be organized – and for whom? Should the number of jurisdictions for each urban area be limited, perhaps reduced to a single unit, to produce economies in local service delivery, and to focus political responsibility? Or should urban areas have numerous, overlapping, special-purpose local jurisdictions to increase citizen choice and flexibility (Keating 1995; Lowery 2000; Ostrom 1972)? The organization of public transit in the San Francisco Bay Area is a vivid example of the latter. As Donald Chisholm described the situation in the late 1970s, public rail and bus service was fragmented into seven overlapping jurisdictions (1989). Four of these, the Alameda Contra Costa County Transit District, Santa Clara County Transit District, the San Mateo County Transit District, and the Bay Area Rapid Transit District are special-purpose jurisdictions created by California State legislation. All except the last were activated by voters, and all except the San Mateo County Transit District have directly elected Boards of Directors. A fifth jurisdiction was incorporated under California legislation to operate the Golden Gate Bridge and its approaches, with a 19-member Board appointed by six surrounding counties. A sixth, the Muni, is a division of the Public Utilities Commission of San Francisco. Finally, a Metropolitan Transportation Commission encompasses the entire Bay Area, and more, and is empowered by the state legislature to review budgets, coordinate long-term planning, and vet applications for financial assistance. Chisholm contends that this complex arrangement not only works, but works well, and he charts in detail the complex patterns of interdependence, formal institutions, and informal networks that characterize the system.

Similar issues arise in the context of European integration. How should authority be organized in a European Union composed (after 2004) of 25 member states? Centralizing national authority in a European super-state is not on the agenda, but sharply different jurisdictional designs are on offer (Börzel and Risse 2000; Joerges, Mény, and Weiler 2000). Federalists support a coherent system of nested governments, stretching up to a unified and encompassing European level. The same decision-making procedures and laws – the *acquis communautaire* – would apply to Poles and Slovenes as they do to Portuguese and Swedes. National governments – and nested within them, regional and local governments – would be

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1 We define governance as binding decision making in the public sphere.

(co)responsible for policies at lower territorial scales. This vision is contested by those who argue that Europeans would be better served by overlapping and even competing jurisdictions – the European term is “variable geometry.” Instead of a single continental-wide jurisdiction, authority would be spliced into multiple, functionally-specific, policy regimes with overlapping national memberships. Each country would choose the jurisdictions to which it would belong (Eichenberger and Frey 2001). The same principle can be applied to citizens who would be members of one or more of a variety of publicly-empowered organizations that would represent them on sub-sets of issues (Schmitter 2000).

We propose that issues of jurisdictional design are fractal. Similar choices arise at widely differing territorial scales. The diffusion of decision making away from the central state raises fundamental issues of design that, we argue, can be conceptualized as two contrasting types of governance. We claim that these types are logically coherent, and that they represent alternative responses to fundamental problems of coordination. We conclude by arguing that these types of governance reflect distinct conceptions of community.

## 1. Islands of Theorizing

How have scholars in political science responded to the unraveling of central state control? One intellectual response to the diffusion of authority has been to stretch established concepts over the new phenomena. Scholars of federalism have applied their approach to power sharing among as well as within states. International relations scholars are extending theories of international regimes to include diffusion of authority within states. Another response has been to create entirely new concepts, such as multi-level governance, polycentric governance, multi-perspectival governance, condominio, and fragmentation. Table 1 lists five literatures and the terms they have generated for diffusion of authority. We describe them as islands because the density of communication within each of them is much greater than that among them.

**Table 1: Against Unitary Government – Concepts**

|                                 |   |
|---------------------------------|---|
| <b>European Union studies:</b>  | multi-tiered, multi-level governance; network governance; consortio and condominio  |
| <b>International Relations:</b> | multi-lateral cooperation; global governance; fragmentation; multi-perspectival governance  |
| <b>Federalism:</b>              | multiple jurisdictions; multi-level government or governance; multi-centered governance; matrix of authority; decentralization; competing jurisdictions; market-preserving federalism; FOCJ |
| <b>Local Government:</b>        | multiple local jurisdictions; fragmentation vs. consolidation; polycentric governance   |
| <b>Public Policy:</b>           | polycentric governance; governance by networks; multi-level governance  |

One such island is European Union studies, where the label multi-level (or multi-tiered) governance is common currency among scholars and decision makers.<sup>2</sup> Multi-level governance initially described a “system of continuous negotiation among nested governments at several territorial tiers – supranational, national, regional and local” that was distinctive of EU structural policy (Marks 1993, 392; Hooghe 1996), but the term is now applied to the European Union more generally (e.g. Bache and Flinders forthcoming; Grande 2000; Hooghe and Marks 2001). Europeanists have also analyzed the diffusion of decision making to informal and overlapping policy networks (e.g. Ansell 2000; Kohler-Koch and Eising 1999; Peterson 2001). Philippe Schmitter has developed Latinized terms, consortio and condominio, to describe novel possibilities for a non-state order in Europe (1996). While some conceive multi-level governance as an *alternative* to hierarchical government, others view policy networks as nested in formal government institutions (Rhodes 2000; Peters and Pierre 2000).

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2 European Commission president Romano Prodi has called for “more effective multi-level governance in Europe . . . The way to achieve real dynamism, creativity and democratic legitimacy in the EU is to free the potential that exists in multi-layered levels of governance” (Prodi 2001). In its 2001 *White Paper on Governance*, the European Commission characterizes the European Union as one “based on multi-level governance in which each actor contributes in line with his or her capabilities or knowledge to the success of the overall exercise. In a multi-level system the real challenge is establishing clear rules for how competence is shared – not separated; only that non-exclusive vision can secure the best interests of all the Member States and all the Union’s citizens” (Commission 2001, 34–35).

Reconfiguring authority has been a major topic for international relations scholars. Literature on multilateral cooperation and global governance has sought to specify the conditions under which national governments create international regimes. A classic point of departure is Robert Keohane's 1982 article in *International Organization*, which analyzes demand and supply for international regimes to reduce transaction costs and limit asymmetrical uncertainty. More recently, scholars have begun to examine how globalization facilitates the diffusion of political authority to subnational and international institutions (Kahler and Lake 2003; Nye and Donahue 2000). Others focus on the proliferation of non-governmental actors in international governance (e.g. Keck and Sikkink 1998; O'Brien et al. 2000; Risse-Kappen 1995).

This literature asks whether and how these developments challenge Westphalian statehood (Caporaso 2000; Keohane and Nye 2000; for a skeptical view, see Krasner 1999). Some IR scholars claim that they unbundle territoriality by breaking the umbilical cord between territory and authority. John Ruggie compares the outcome to medieval rule with its patchwork of overlapping and incomplete rights (1993, 149). James Rosenau argues that national governments are losing ground to networks of corporations, non-governmental organizations, professional societies, advocacy groups, alongside governments. These "spheres of authority" ensure compliance but they are non-hierarchical, fluid, mostly non-governmental, and often non-territorial (Rosenau 1997).

An extensive literature on federalism examines the optimal allocation of authority across multiple tiers of government and how governments at different levels interact. An appreciation of the benefits of decentralization – summarized by Wallace Oates' Decentralization Theorem – underlies much of this literature (1999, 1122). These scholars speak of multi-level governance or government (Benz 2000; Simeon and Cameron 2000; Wright 1987, 2001), multi-centered governance (Kincaid 2001; Nicolaidis 2001), multiple jurisdictions (Oates 1972; Tullock 1969), and matrix of decision making (Elazar 1987). In recent years, this literature has been extended in several directions. Several writers employ concepts drawn from federalism to shed light on supranational regimes, and in particular, the European Union (e.g. Inman and Rubinfeld 1992; Sbragia 1993; Scharpf 1988). There has also been a major effort to measure regional and local decentralization across developed and developing countries (e.g. Garman, Haggard, and Willis 2001; Rodden 2002, forthcoming; Treisman 1999). Finally, deductive theorists analyze multi-level governance in terms of supply and demand for jurisdictions. They challenge the efficiency of monopolistic, territorially fixed, and nested governments, and propose instead flexible jurisdictions conceived as "voluntary coalitions for financing, choosing, and enjoying excludable public goods" (Casella and Weingast 1995, 15). Interjurisdictional competition informs Alessandra Casella's work on clubs (Casella and Frey 1992), Barry Weingast's market-preserving federalism (1995), Bruno Frey's FOCJ (functional, overlapping, competitive jurisdictions) (Frey and Eichenberger 1999), and recent analyses of the number and size of nations (Alesina and Spolaore 1997; Hiscox and Lake 2002).

The study of local government in the United States and Western Europe bears directly on multi-level, polycentric governance. For over four decades, opposing views about the appropriate size and division of functions have structured debate on local and metropolitan governance (e.g. Dowding, John, and Biggs 1994; Foster 1997; Lowery 2000). An influential starting point is Tiebout's 1956 article, which establishes the claim that competition among multiple local jurisdictions leads to more efficient provision of local public services. Flexible governance arrangements and overlapping, polycentric, jurisdictions have constituted the central research agenda of the Indiana Workshop for several decades (McGinnis 1999a, 1999b, 2000; Ostrom, Bish, and Ostrom 1988). The benefits of "the competitive city" (Schneider 1989) are challenged by consolidationists who argue that efficiency and redistribution are better served by amalgamating numerous, overlapping, jurisdictions into a limited number of municipal governments (Downs 1994; Lyons and Lowery 1989; Frug 1999).

The debate between "two traditions" (Ostrom 1972) of diffusing authority has spilled into public policy. The question of how common goods can be created under multi-level governance is well established (Héritier 2002). Some public policy analysts explore how market principles, participation on the part of societal actors, and deregulation create flexible, self-organizing, loosely coupled, "governance by networks" (Marin and Mayntz 1991). Such networks are hypothesized to reach into the international arena (Blatter 2001; Pappi and Henning 1999; Ronit and Schneider 1999). The generalizability of network governance is questioned by writers who emphasize that central government continues to steer decision making, albeit in cooperation with societal interests and subnational governments (Jeffery 1996; Seidman and Gilmour 1986). Peters and Pierre stress that the "shift" towards multi-level governance should . . . be conceived of as a gradual incremental development in which institutions still play a defining role in governing. . . . multi-level governance [should not be] seen as an alternative but rather as a complement to intergovernmental relations defined in a regulatory framework" (forthcoming, 2–3).

## 2. Flexible Governance

These literatures share a basic postulate: dispersion of governance across multiple jurisdictions is *more flexible* than concentration of governance in one jurisdiction. Efficient governance adjusts jurisdictions to the trade-off between the virtues and vices of centralization (Alesina and Spolaore 1997; Marks and Hooghe 2000).<sup>3</sup> Large (i.e. territorially

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3 To say that multi-level governance is more efficient than centralized government is not to say that efficiency determines multi-level governance. Causal explanation of multi-level governance must come to grips with political factors, including party-political or distributional coalitions, legal constraints, path dependence, and identity (Marks and Hooghe 2000).

extensive) jurisdictions have the virtue of exploiting economies of scale in the provision of public goods, internalizing policy externalities, allowing for more efficient taxation, facilitating more efficient redistribution, and enlarging the territorial scope of security and market exchange. Large jurisdictions are bad when they impose a single policy on diverse ecological systems or territorially heterogeneous populations.

One criticism of centralized government is that it is insensitive to varying scale efficiencies from policy to policy. Economies of scale are more likely to characterize the production of capital-intensive public goods than of labor-intensive services because economies accrue from spreading costs over larger outputs (Oakerson 1999). So economies of scale in military defense and physical infrastructure are far greater than in education. Large-scale jurisdictions make sense for the former; small-scale jurisdictions for the latter.

Efficiency requires that a policy's full effects – positive and negative – be internalized in decision making. Externalities arising from a policy to impede global warming encompass the entire planet, but those involving waste management, water quality control, nature preservation, or urban planning, for example, are local or regional. Under multi-level governance, jurisdictions can be custom-designed with such variation in mind.

Centralized government is not well suited to accommodate diversity. Ecological conditions may vary from area to area. Controlling smog in a low lying flat area surrounded by hills (such as Los Angeles) poses a very different policy problem than smog control in a high plateau such as Denver. Preferences of citizens may also vary sharply across regions within a state, and if one takes such heterogeneity into account, the optimal level of authority may be lower than economies of scale dictate. In short, multi-level governance allows decision makers to adjust the scale of governance to reflect heterogeneity.<sup>4</sup>

### 3. Two Types

Beyond the bedrock agreement that flexible governance must be multi-level, there is no consensus about how multi-level governance should be structured.

- Should jurisdictions be designed around particular *communities*, or should they be designed around particular policy *problems*?

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4 Other hypothesized benefits of multi-level governance are that it provides more complete information of constituents' preferences, is more adaptive in response to changing preferences, is more open to experimentation and innovation, and that it facilitates credible commitments (Majone 1998; Weingast 1995). Costs of multi-level governance are seen to arise from incomplete information, inter-jurisdictional coordination, interest group capture, and corruption (Foster 1997; Gray 1973; Lowery et al. 1995; Cai and Treisman 2001).



- Should jurisdictions *bundle* competencies, or should they be functionally *specific*?
- Should jurisdictions be *limited* in number, or should they *proliferate*?
- Should jurisdictions be designed to *last*, or should they be *fluid*?

Do answers to these questions hang together coherently? Can one conceptualize logically coherent types that capture alternative jurisdictional arrangements?

We attempt to do this in the remainder of this article. Table 2 sets out types of multi-level governance drawn from the literatures described above. We label them simply as Type I and Type II.<sup>5</sup> The first two attributes in the table concern variation among individual jurisdictions; the final two describe systemic properties.

**Table 2: Types of Multi-Level Governance**

| TYPE I  | TYPE II   |
|---|---|
| general-purpose jurisdictions                         | task-specific jurisdictions                     |
| non-intersecting memberships                          | intersecting memberships                        |
| jurisdictions organized in a limited number of levels | no limit to the number of jurisdictional levels |
| system-wide architecture                              | flexible design                                 |

Type I multi-level governance describes jurisdictions at a limited number of levels. These jurisdictions – international, national, regional, meso, local – are general-purpose. That is to say, they bundle together multiple functions, including a range of policy responsibilities, and in many cases, a court system and representative institutions. The membership boundaries of such jurisdictions do not intersect. This is the case for jurisdictions at any one level, and it is the case for jurisdictions across levels. In Type I governance, every citizen is located in a Russian Doll set of nested jurisdictions, where there is one and only one relevant jurisdiction at any particular territorial scale. Territorial jurisdictions are intended to be, and usually are,

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<sup>5</sup> We resist the urge to give proper names to these types and so add terminological complexity to an already jargon-laden subject. For those who prefer substantive labels, we suggest “general-purpose jurisdictions” and “task-specific jurisdictions.”

stable for periods of several decades or more, though the allocation of policy competencies across jurisdictional levels is flexible.

Type II multi-level governance is distinctly different. It is composed of specialized jurisdictions. Type II governance is fragmented into functionally specific pieces – say, providing a particular local service, solving a particular common resource problem, selecting a particular software standard, monitoring water quality of a particular river, or adjudicating international trade disputes. The number of such jurisdictions is potentially huge, and the scales at which they operate vary finely. There is no great fixity in their existence. They tend to be lean and flexible – they come and go as demands for governance change.

In the following section we set out a functional argument explaining why these types co-exist. But first, we describe them in more detail and ground them in their respective literatures.

## Type I governance

The intellectual foundation for Type I governance is federalism, which is concerned with power sharing among a limited number of governments operating at just a few levels. Federalism is chiefly concerned with the relationship between central government and a tier of non-intersecting sub-national governments. The unit of analysis is the individual government, rather than the individual policy. In the words of Wallace Oates, dean of fiscal federalism, “the traditional theory of fiscal federalism lays out a general normative framework for the assignment of functions to different levels of government and the appropriate fiscal instruments for carrying out these functions” (1999, 1121). The framework is system-wide; the functions are bundled; and the levels of government are multiple but limited in number. Type I governance shares these basic characteristics, but does not necessarily exist only within individual states. We discuss these characteristics in turn.

*General-purpose jurisdictions.* Decision-making powers are dispersed across jurisdictions, but bundled in a small number of packages. Federalists and students of intergovernmental relations tend to emphasize the costs of decomposing authority into disparate packages. This idea is especially strong in Europe where local government usually exercises “a wide spread of functions, reflecting the concept of general-purpose local authorities exercising comprehensive care for their communities” (Norton 1991, 22).

*Non-intersecting memberships.* Type I jurisdictions are characterized by non-intersecting memberships.<sup>6</sup> Membership is usually territorial, as in national states, regional, and local

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6 While membership of Type I jurisdictions is non-intersecting, competencies are often shared or overlapping. There has, for example, been a secular trend away from compartmentalization in federal polities.

governments, but it can also be communal, as in consociational polities.<sup>7</sup> Such jurisdictions are defined by durable boundaries that are non-intersecting at any particular level. Moreover, the memberships of jurisdictions at higher and lower tiers do not intersect. This extends the Westphalian principle of exclusivity into the domestic arena (Caporaso 2000). The same principle is present in the international arena, where the United Nations, the WTO, and the European Union encompass national states.<sup>8</sup>

The key systemic characteristics of Type I governance are as follows:

*Limited number of jurisdictional levels.* Type I governance organizes jurisdictions at just a few levels. Among students of intergovernmental relations, it is common to distinguish a local, an intermediate, and a central level (John 2001).

*System-wide, durable architecture.* One does not arrive at general-purpose, non-intersecting, and nested jurisdictions by accident. Systemic institutional choice is written all over Type I governance. In modern democracies, Type I jurisdictions usually adopt the *trias politica* structure of an elected legislature, an executive (with a professional civil service), and a court system. As one moves from smaller to larger jurisdictions, the institutions become more elaborate but the basic structure is similar. Though the institutions of the US federal government are far more complex than those of a French town, they resemble each other more than they do the Type II arrangements described below.

Type I jurisdictions are durable. Jurisdictional reform – that is, creating, abolishing, or radically adjusting new jurisdictions – is costly and unusual. Such change normally consists of re-allocating policy functions across existing levels of governance. The institutions responsible for governance are sticky, and they tend to outlive the conditions that brought them into being.

## Type II governance

An alternative form of multi-level governance is one in which the number of jurisdictions is potentially vast, rather than limited; in which jurisdictions are not aligned on just a few levels, but operate at numerous territorial scales; in which jurisdictions are task-specific rather than general-purpose; and where jurisdictions are intended to be flexible rather than durable. This conception is predominant among neoclassical political economists and public choice

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7 Other examples of non-territorial Type I governance are the clan system in Somalia, communal self-governance in the Ottoman empire, and religious self-governance in India.

8 There are a few exceptions. For example, Greenland and the Faeroe Islands, self-governing parts of Denmark, are not members of the European Union.

theorists, but it also summarizes the ideas of several scholars of federalism, local government, international relations, and European studies.

*Task-specific jurisdictions.* In Type II governance, multiple, independent jurisdictions fulfill distinct functions. This leads to a governance system where “each citizen . . . is served not by ‘the’ government, but by a variety of different public service industries. . . . We can then think of the public sector as being composed of many public service industries including the police industry, the fire protection industry, the welfare industry, the health services industry, the transportation industry, and so on” (Ostrom and Ostrom 1999, 88–89). In Switzerland, where Type II governance is quite common at the local level, these jurisdictions are aptly called *Zweckverbände* – goal-oriented/functional associations (Frey and Eichenberger 1999).

Type II governance is widespread at the local level. There are fairly detailed data on Switzerland, where Frey and Eichenberger identify six types of functional, overlapping, competitive jurisdictions that complement or compete with general-purpose local governments. These communes, of which there are around 5,000, perform specialized tasks, such as providing local schooling, electricity, gas, water, or street lighting. In addition, hundreds of inter-communal associations provide specialized public goods at a larger scale, including for example, hospitals, nursing homes, or garbage collection. According to the authors’ calculations, there were 178 such associations in the canton of Zurich alone in 1994 (Frey and Eichenberger 1999, 49–53). The closest functional equivalent in the United States consists of the “special districts,” which, as in Switzerland, have intersecting territorial boundaries and perform specific tasks. Special district governance is particularly dense in metropolitan areas: in 1992, the metropolitan area of Houston had 665 special districts, Denver 358, and Chicago 357 (Foster 1997, 122). Overall, the number of special districts has seen a three-fold rise from 12,340 in 1952 to 35,356 in 2002. Ninety-one percent of these are single function districts, dealing with one of the following: natural resources, fire protection, water supply, housing, sewerage, cemeteries, libraries, parks and recreation, highways, hospitals, airports, electric power or gas supply, or public transit. These figures do not include several interstate special districts, such as the Delaware River and Bay Authority (operating the Delaware Memorial Bridge and the Cape May-Lewes Ferry connecting Delaware and New Jersey), the Chicago Gary Regional Airport Authority (involving Chicago, Illinois and Gary, Indiana), or the Port Authority between New York and New Jersey; nor do they include independent school districts, of which there were in 2002 over 13,500 (U.S. Bureau of the Census 1999, 2002).

*Intersecting memberships.* “There is generally no reason why the smaller jurisdictions should be neatly contained within the borders of the larger ones. On the contrary, borders will be crossed, and jurisdictions will partly overlap. The ‘nested,’ hierarchical structure of the nation-state has no obvious economic rationale and is opposed by economic forces” (Casella and Weingast 1995, 13).

Frey and Eichenberger coin the acronym FOCJ (functional, overlapping, and competing jurisdictions) for this form of governance (1999). “Polycentricity” was initially used to describe metropolitan governance in the United States, which has historically been considerably more fragmented than in Europe. It is now applied by Elinor and Vincent Ostrom as a generic term for the co-existence of “many centers of decision-making that are formally independent of each other” (Ostrom, Tiebout, Warren 1961, 831). In the context of the European Union, Philippe Schmitter uses the term *condominio* to describe “dispersed overlapping domains” having “incongruent memberships” that “act autonomously to solve common problems and produce different public goods” (1996, 136).

Type II governance has the following systemic characteristics:

*Many jurisdictional levels.* Type II governance is organized across a large number of levels. Instead of conceiving authority in neatly defined local, regional, national, and international layers, public choice students argue that each public good or service should be provided by the jurisdiction that effectively internalizes its benefits and costs. The result is jurisdictions at diverse scales – something akin to a marble cake. Students of Type II governance generally speak of multi- or poly-centered governance, which, they feel, have less a ring of hierarchy to them than the terms multi-level or multi-tiered governance.

One area where one finds a multiplicity of Type II jurisdictions is in densely populated frontier regions in North America and Western Europe. Ad-hoc, problem-driven jurisdictions in the form of inter-regional commissions, task forces, and inter-city agencies have mushroomed over the past three decades. In the Upper Rhine Valley, for example, the Swiss cantons of Basel-Land and Basel-Stadt, the French department Haut Rhin, and the German district Basel-Stadt have developed a wide range of trans-national jurisdictions, involving meetings of regional government leaders, a regional council of parliamentary representatives, a conference of city mayors, boards of regional planners, associations of local authorities, agricultural associations, chambers of commerce, cooperation projects among universities, joint research projects on regional climate change and biotechnology, teacher exchange programs, and school partnerships (Weyand 1999; Perkmann 1999). Dense cross-border cooperation has also emerged along the Californian/Mexican border and the US/Canadian border (Blatter 2001).

Type II governance has also proliferated in the international arena. A critic of the traditional statist view of governance describes this process as “fraggementation” – a neologism combining fragmentation and integration (Rosenau 1997). In his conception, there is no up or under, no lower or higher, no dominant class of actor; rather, a wide range of public and private actors who collaborate and compete in shifting coalitions. The outcome is akin to Escher’s famous lithograph of incongruously descending and ascending steps.

*Flexible design.* Type II jurisdictions are intended to respond flexibly to changing citizen preferences and functional requirements. The idea is rooted in Tiebout's argument that mobility of citizens among multiple competing jurisdictions provides a functional equivalent to market competition (1956). In a subsequent article, Ostrom, Tiebout, and Warren (1961) put the burden of mobility and change on jurisdictions rather than on citizens. According to Frey, "FOCJ . . . are flexible units which are established when needed . . . [And] FOCJ are discontinued when their services are no longer demanded as more citizens and communities exit and the tax base shrinks ... FOCJ are an institutional way to vary the size of public jurisdictions in order to minimize spillovers. A change in size is, therefore, a normal occurrence" (Frey and Eichenberger 1999, 18 and 41).

Type II governance is generally embedded in Type I governance, but the way this works varies. There is no general blueprint. The legal context is decisive for the density of special districts in the US. A tally of district-enabling laws in California in the early 1980s counted 206 state statutes enabling 55 varieties of special districts for 30 government functions (Foster 1997, 11). No less than 200 pages of the most recent U.S. Census of Government were devoted to "a summary description" of local government variation across US states (U.S. Bureau of the Census 1999, 73–277). Some districts are created by state legislatures, others are set up by one or more counties or municipalities, while others are initiated by a citizen petition. Special districts may be governed by appointed or elected boards; for some elected boards, only property owners rather than residents can vote. Some special districts levy taxes or fees, while others do not. The geographical scope varies from interstate, to regional and submunicipal, but the majority of special districts are a) smaller than the county *and* b) overlap with other local governments (Foster 1997, 9–15). In Switzerland, some local Type II jurisdictions have the power to tax, while others do not, and some, but not all, governing boards are directly elected. The territorial boundaries and conditions for membership vary from jurisdiction to jurisdiction (Frey and Eichenberger 1999). The result is a baroque patchwork of Type II jurisdictions overlaying a nested pattern of Type I jurisdictions.

Task-specificity and impermanence are common features of international regimes. Type II governance is ubiquitous in efforts to internalize transnational spillovers in the absence of authoritative coordination. For example, more than 150 environmental treaties have been agreed among states, half of them since 1970 (Clark 2000). The territorial scale of these regimes varies from global to regional. Most target functionally specific policy problems ranging from aircraft engine emissions, climate change, ozone layer protection, shipment of hazardous waste, to whaling, migratory species, tropical timber, etc. However, few are neatly insulated. Their functions often overlap, as has been demonstrated in the case of the international Convention on Biological Diversity and the trade-related aspects of intellectual property rights under the World Trade Organization (Rosendal 2001).

A recent count of international governmental organizations shows steep growth over the past 50 years, from 70 in 1940 to more than one thousand in the 1980s. However, of 1,063

organizations existing in 1981, only 723 survived a decade later, while an additional 400 or so came into being (Shanks, Jacobson, and Kaplan 1996, 143). This fluidity stands in stark contrast to Type I jurisdictions. A study of American federal bureaucracies found that two-thirds of federal agencies in existence in 1923 were still active fifty years later. The mortality rate for Type I domestic bureaucracies is estimated to be five times lower than for international governmental organizations (Kaufman 1976, cited in Shanks, Jacobson, and Kaplan 1996, 143).

## 4. The Coordination Dilemma

The chief benefit of multi-level governance lies in its scale flexibility. Its chief cost lies in the transaction costs of coordinating multiple jurisdictions. The coordination dilemma confronting multi-level governance can be simply stated: To the extent that policies of one jurisdiction have spillovers (i.e. negative or positive externalities) for other jurisdictions, so coordination is necessary to avoid socially perverse outcomes. We conceive this as a *second-order* coordination problem because it involves coordination among institutions whose primary function is to coordinate human activity.

Second-order coordination costs increase exponentially as the number of relevant jurisdictions increases. Fritz Scharpf has probed the conditions of interjurisdictional coordination, and it seems to us fitting to describe this basic dilemma as Scharpf's law: "As the number of affected parties increases . . . negotiated solutions incur exponentially rising and eventually prohibitive transaction costs" (1997, 70).

The simplest way to understand this is to think through the impact of increasing numbers of players in an iterated prisoners' dilemma. A two-player iterated game provides certainty of repeated interaction, and this permits strategies based on tit for tat to effectively punish defection. As the number of actors rises, it becomes harder to punish defectors. Free riding is the dominant strategy for large groups in the absence of a leviathan or of countervailing norms that can induce actors to monitor and punish defection. This is, in a nutshell, the coordination dilemma of multi-level governance.

How can multi-level governance deal with the coordination dilemma? One strategy is to *limit the number of autonomous actors* who have to be coordinated by limiting the number of autonomous jurisdictions. The second is to *limit interaction among actors* by splicing competencies into functionally distinct units.

The first strategy underpins Type I governance. Type I governance describes a limited number of multi-task, general-purpose jurisdictions with non-intersecting borders. By bundling competencies together, Type I governance gains the benefits of varying territorial

scale while minimizing the number of jurisdictions that have to be coordinated. Type I governance is bundled multi-level governance.

Type I governance constrains the number of jurisdictions according to the following design principles:

- **Non-intersecting memberships.** Jurisdictional memberships at the same territorial level do not overlap. Non-intersecting membership limits the need for jurisdictional coordination horizontally at any level and, vertically, across levels.
- **Cascading jurisdictional scale.** The territorial scale of jurisdiction decreases sharply across levels. European Union countries have between two and five subnational levels, described by the European Commission in terms of a common rubric, the Nomenclature des unités territoriales statistiques (NUTS) (Eurostat 1999, 27). The median population represented in the first level, NUTS 1 jurisdictions, is 3.89 million; that in the second level, NUTS 2 jurisdictions, is 1.42 million; NUTS 3 jurisdictions have a median population of 369,000; the median population in NUTS 4 is 48,000, and at the lowest level, NUTS 5, it is 5,100. In the United States, the corresponding median population for states is 3.76 million, for counties, 69,600, and for subcounties, 8,800. Cascading jurisdictional scale spreads governance across vastly different scales, but limits the total number of subnational levels to three, four, or at most, five tiers.<sup>9</sup>
- **General-purpose jurisdictions.** A logical corollary is that authoritative competencies are bundled into a small number of extensive packages at each level. Type I governance disperses authority across widely different levels, and constrains the number of levels by making the jurisdictions at each level multi-purpose.
- **System-wide architecture.** The pyramidal structure of Type I governance lends itself to hierarchical direction. Most Type I governance systems are bound together by a single court system with ultimate authority to adjudicate among contending jurisdictions.

The alternative approach is to limit coordination costs by constraining interaction across jurisdictions. Type II governance sets no ceiling on the number of jurisdictions, but spawns new ones along functionally differentiated lines. As a result, externalities across jurisdictions are minimized. This is an exact corollary to Herbert Simon's notion of "nearly decomposable" structures (1996, 178). Simon argues that tasks within an organization should be distributed so that the share of internal interactions within constituent units is maximized and the share

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<sup>9</sup> These are inter-country or inter-state medians. We first calculate country (or state) average populations at each jurisdictional level, and then take the figure for the median country (or state).



of external interactions minimized. The idea, applied to jurisdictional design, is to distribute tasks so that the short-run behavior of actors across different jurisdictions is more or less independent from that of others, while their long-run behavior is connected only in the aggregate.<sup>10</sup>

How can decomposability be attained in policy provision? How, in other words, can one break up policy making into discrete pieces with minimal external spillover? The following design principles characterize Type II governance:

- **Functional specificity.** Specific, functionally distinct competencies are hived off, and insulated. In this way, externalities – and therefore interdependence – among jurisdictions are minimized. The assumption that all significant costs and benefits are internalized within the jurisdiction is a foundation of Type II governance theory, including Tiebout's theory of jurisdictional competition (1956), Buchanan's theory of clubs (1965), and Oates' analysis of metropolitan competition (Oates and Schwab 1988).
- **Flexible, policy-specific architecture.** Type II governance is designed with respect to particular policy problems – not particular communities or constituencies. Institutional design – the scope of a jurisdiction, its mode of decision making, adjudication, and implementation – can thus be adapted to particular policy problems.

The gist of this line of thinking is that Type I and Type II governance are good at different things, and co-exist because they are complementary. The result is a fluctuating number of relatively self-contained, functionally differentiated Type II jurisdictions alongside a more stable population of general-purpose, nested Type I jurisdictions.

## 5. Intrinsic vs. Extrinsic Community

Yet Type I and Type II governance are not merely different means to the same end. They embody contrasting conceptions of community. Type I jurisdictions are usually based on encompassing communities. Such communities are often territorial, but they may also be based on membership of a particular religious or ethnic group. In either case, the jurisdiction satisfies a preference for collective self-government, a good that is independent of citizens' preferences for efficiency or for any particular policy output. Disputes about Type I

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<sup>10</sup> The extent to which one can achieve this is contested. Chisholm is sanguine that "In general most systems are decomposable" (1989, 63), but others argue that coordination is a problem (e.g. Peters; Rosendal 2001). There is general agreement, however, that policies are self-sufficient. Type II jurisdictions are designed to minimize interactions, but they must still face the difficulty of producing inter-jurisdictional cooperation.

jurisdictional boundaries can usually not be settled by comparative evaluations of the efficiency of competing jurisdictional arrangements in providing public goods, but involve as well contending conceptions of community.

Type I jurisdictions are often rooted in communal identity. Historically, the development of national states has gone hand in hand with nationalism. The strongest pressures for multi-level governance within such states have come from regionally based national minorities. Recent research indicates that support among European citizens for European integration is closely associated with the extent to which they identify with Europe. The most trenchant opposition to European integration comes from populist right parties defending national community and national sovereignty against foreign influences (Hooghe, Marks, and Wilson 2002).

Correspondingly, Type I governance is oriented to voice, rather than to exit. Type I jurisdictions have extensive institutional mechanisms to deal with conflict, including zero-sum conflict about basic values. Because they bundle policies together, Type I jurisdictions are able to benefit from scale economies in the provision of democratic institutions. Issue bundling facilitates distributional bargaining, logrolling, and side-payments.

Exit, on the other hand, is difficult, and is not conceived as a feasible option for those who disagree with the government. Exit in a Type I world usually means moving from one locality, region, or country to another. Where jurisdictions are designed around religion or group membership, exit demands that one changes one's identity.

Type II jurisdictions are more pliable. They are set up to solve particular policy problems, such as managing a common pool resource, setting a technical standard, managing an urban service, or shipping hazardous waste. The constituencies of Type II jurisdictions are individuals who share some geographical or functional space and who have a common need for collective decision making – e.g. as irrigation farmers, public service users, parents, exporters, homeowners, or software producers. These are not communities of fate; membership is voluntary, and one can be a member of several such groups. They are akin to the optimal jurisdictions described by Martin McGuire, generated by “common advantages people may find in producing, exchanging, or consuming some good which they value” (1974, 132). Membership in such functional communities is extrinsic; it encompasses merely one aspect of an individual's identity.

Many Type II jurisdictions facilitate entry and exit in order to create a market for the production and consumption of a public good. Most do not seek to resolve fundamental disagreements by deliberation, but instead avoid them altogether by allowing individuals to

choose among competing jurisdictions.<sup>11</sup> Proponents of competing arrangements like to say that Type I jurisdictions choose citizens, while citizens choose Type II jurisdictions.

## 6. Conclusion

Political science has had far more to say about *how* collective decisions can and should be made than about *for whom* they can and should be made. Answers to the “how” question have narrowed because there is no legitimate alternative to liberal democracy. Debate centers on the merits of alternative democratic designs. But there is little consensus about jurisdictional design – the “for whom” question. Central states are shedding authority to supranational and subnational authorities, but what kinds of jurisdictional architecture might emerge?

We make no claim to originality. The types we describe are distilled from research in local government, federalism, European integration, international relations, and public policy. Type I and Type II governance arise – under different guises and with different labels – as fundamental alternatives in each of these fields. Specialists will surely wish to make finer distinctions than the ones we draw. There is an extensive literature on variation within each type. Our belief is that a logically consistent schema setting out basic institutional options can help situate one’s work in a larger intellectual enterprise. In the process, we hope we raise in the reader’s mind many more questions than we can possibly answer. How do these types co-exist? What are their dynamic properties? How is democracy limited or enabled in each institutional set-up?

The types of governance that we conceive share one vital feature: they are radical departures from the centralized state. However, they diffuse authority in contrasting ways. The first type of governance – we label this Type I – bundles competencies in jurisdictions at a limited number of territorial levels. These jurisdictions form part of a system-wide plan: they are mutually exclusive at each territorial level, and the units at each level are perfectly nested within those at the next higher level. Jurisdictional design generally corresponds to communal identities: each jurisdiction caters to an encompassing group or territorial community. These jurisdictions are oriented to voice rather than to exit. Type I governance reflects a simple design principle: maximize the fit between the scale of a jurisdiction and the optimal scale of public good provision while minimizing inter-jurisdictional coordination by a)

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11 Not always though. In *Governing the Commons* Elinor Ostrom (1990) describes several common pool resource arrangements with deliberative-democratic decision making. As Ostrom observes, such jurisdictions tend to become magnets for solving a wide range of community problems. Once such institutions are in place, it may be more efficient to add governance functions to an existing jurisdiction than to create a new one. Democratic accountability of task-specific regimes is also discussed in international relations (e.g. Nye and Donahue 2000; Skogstad 2001).

creating inclusive jurisdictions that internalize most relevant externalities and b) limiting the number of jurisdictional levels.

Type II governance also limits the transaction costs of inter-jurisdictional coordination, but it does so in a fundamentally different way, by splicing public good provision into a large number of functionally discrete jurisdictions. But these jurisdictions do not conform to an overarching blueprint. Rather, each is designed to address a limited set of related problems. Type II jurisdictions are task-driven. Hence, the same individual may be part of several overlapping and intersecting jurisdictions. Membership in Type II jurisdictions tends to be conditional and extrinsic. Type II jurisdictions are often designed to have low barriers to entry and exit so as to engender competition among them.

As we conceptualize them here, these forms of governance represent very different ways of organizing political life. Type I governance is non-intersecting from the standpoint of membership; type II governance is non-intersecting from the standpoint of tasks. The former is designed around human (usually territorial) community; the latter is designed around particular tasks or policy problems. The development of multi-level governance is commonly understood to be a general phenomenon in western democracies. We argue that fundamentally contrasting outcomes are at stake.

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